

ATTACHMENT D

Demonstration that Rohm and Haas is in compliance with 220 ILCS 5/16-115(d)(5) ("Reciprocity").

Rohm and Haas Chemicals is not a traditional public utility and it does not own distribution facilities for public use. Rohm and Haas Chemicals does not have any public utility or power marketer affiliates. As described herein Rohm and Haas Chemicals is affiliated with Morton International, a Commission-approved ARES. However, once Rohm and Haas Chemicals is certified as an ARES, Morton International will request that the Commission cancel its ARES certification.

Rohm and Haas Chemicals will distribute power, over a distribution line it owns, to a single end-user located in Rohm and Haas Chemicals' Ringwood complex. The Ringwood complex is located in Commonwealth Edison's service territory.

Rohm and Haas Chemicals will buy the power it distributes to its single end user from WPS Energy Services Inc., ("WPS"), a certified ARES.¹ WPS is certified to provide service in the Commonwealth Edison, Central Illinois Light Company d/b/a Ameren CILCO, Central Illinois Public Service Company d/b/a/ Ameren CIPS, Illinois Power Company d/b/a Ameren IP, Interstate Power Company, Mt. Carmel Public Utility Company, South Beloit Water, Gas, and Electric Company, and the MidAmerican Energy Company service territories.² WPS has four wholly owned subsidiaries, Quest Energy, LLC located in Ann Arbor Michigan, Advantage Energy, Inc., located in Buffalo, N.Y., Power Development, L.L.C. located near Green Bay, Wisconsin, and WPS Energy Services of Canada Corp with its principal office near Green Bay, Wisconsin and satellite offices in Montreal, Quebec, Canada and Toronto, Ontario, Canada.

The Commission's July 6, 2005 Order approving WPS's application in Docket No. 05-0319 summarized how WPS satisfies the reciprocity requirement:

Having reviewed the record, the Commission finds that Applicant's affiliates, WPSC and UPPC, own or control facilities, for public use, for the transmission or distribution of electricity to end-users within a defined geographic area to which electric power and energy can be physically and economically delivered by the Illinois electric utilities at issue here. The Commission also finds that WPSC and UPPC provide delivery services in Michigan that are comparable in nature to those offered by electric utilities in Illinois. Similar to the situation in Illinois, it appears there are essentially no limitations on the type or number of WPSC and UPPC customers in Michigan that may select delivery services.

¹ See Docket Nos. 05-0319 (approved 7/06/05) and 06-0310 (approved 5/17/06).

² Docket No. 05-0319.

The Commission further finds that Applicant's utility affiliates provide delivery services to the electric utility or utilities in whose service area or areas the proposed service will be offered that are reasonably comparable to those offered by Illinois electric utilities. Applicant is hereby directed to certify annually to the Commission that its utility affiliate will continue to provide such delivery services and that Applicant has not knowingly assisted any person or entity to avoid the requirements of Section 16-115(d)(5) of the Act. In conclusion, the Commission finds that Applicant meets the requirements of Section 16-115(d)(5) as interpreted by the Court in IBEW.

The Commission considered a scenario similar to that faced by Rohm and Haas Chemicals in *The Lower Electric* proceeding, Docket No. 04-0118 ("*Lower Electric*"). In the *Lower Electric* proceeding, Lower Electric filed an application for ARES certification. In its application, Lower Electric indicated that it was a stand-alone power marketer that does not own or control generation or transmission assets. Lower Electric stated that it would procure power from a utility that meets the reciprocity requirements.³

In its August 4, 2004 Order on Rehearing, the Commission noted that "the reciprocity provisions of Section 16-115 were designed to protect Illinois utilities from unreasonable competition by utilities and their affiliates from outside the state of Illinois."⁴ The Commission acknowledged that Lower Electric is not a utility and does not have any corporate affiliates in the utility business, but identified its principal source of electricity.⁵ Lower Electric established that its supplier's regulated affiliate owns or controls transmission and distribution facilities. Lower Electric sought to meet its own reciprocity requirement by showing that its electricity supplier's affiliate "owns or controls facilities, for public use, . . . to which electric power and energy can be physically and economically delivered by the electric utility or utilities in whose service area or areas the proposed service will be offered" and the same affiliate provides reasonably comparable delivery services within its own service area to the Illinois utilities in whose services areas the supplier will provide power.⁶ The Commission noted that Commonwealth Edison, in whose service territory Lower Electric intended to operate, will receive compensation for use of its transmission and distribution assets, and that Commonwealth Edison's corporate affiliate, Lower Electric's power supplier, would be compensated for use of generating facilities formerly owned by Commonwealth Edison. Thus the Commission granted Lower Electric's ARES certificate, concluding that doing so "will not constitute 'allowing the new entrant to take an unreasonable advantage of the investments made by the formerly regulated industry'"⁷ within the meaning of the Illinois Appellate Court's decision in *International Brotherhood of Electrical Workers v. ICC*, 772 N.E.2d 340 (5th Dist. 2002).

³ *The Lower Electric, LLC*, Order on Rehearing at 5 (Aug. 4, 2004).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

In light of the Commission's statements in *Lower Electric*, Rohm and Haas Chemicals asserts that it complies with the reciprocity requirement because it will purchase all the electricity it sells to its single end user from WPS . As explained above, the Commission has found that WPS complies with the reciprocity requirement. Additionally, Rohm and Haas will continue to pay Commonwealth Edison for the use of its transmission and distribution facilities. Therefore, Rohm and Haas Chemicals meets Section 16-115's reciprocity requirement, as interpreted by the *IBEW* decision.

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Rohm and Haas Chemicals LLC)
Application for Certificate of)
Service Authority under Section)
16-115 of the Public Utilities Act)

Docket No. 06-0775

APPLICATION

Rohm and Haas Chemicals LLC ("Rohm and Haas Chemicals"), hereby requests that the Illinois Commerce Commission grant it a certificate of service authority to operate as an Alternative Retail Electric Supplier ("ARES") pursuant to Section 16-115 of the Public Utilities Act ("Act"), 220 ILCS 5/16-115, and Part 451 of the Commission's Regulations, 83 Ill. Adm. Code 451. Pursuant to a corporate reorganization, Rohm and Haas Chemicals has acquired a chemical facility previously owned by Morton International, Inc. Morton International is a Commission-authorized ARES that currently sells electricity and related delivery services to a single non-residential retail end-use customer with an electrical demand of one megawatt or more.¹ Rohm and Haas Chemicals seeks ARES certification to provide these services to this single non-residential retail end-use customer. In support of its application, Rohm and Haas Chemicals states as follows:

¹ See ICC Docket No. 00-0559

ILLINOIS
COMMERCE COMMISSION
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CHIEF CLERK'S OFFICE

GENERAL

- 1 Rohm and Haas Chemicals' legal name and address is:

Rohm and Haas Chemicals LLC

Corporate Address

100 Independence Mall
West Philadelphia, PA 19106-2399

Facility Address

5005 Barnard Mill Road
Ringwood, IL 60072-0238

2. Rohm and Haas Chemicals is a wholly-owned subsidiary directly and indirectly held by Rohm and Haas Company and is organized as a limited liability company under the laws of the State of Delaware. Rohm and Haas Chemicals' Federal Employment Identification Number is 75-3175238. Its registered agent in the State of Illinois is Corporate Service Company, 801 Adlai Stevenson Drive, Springfield, IL 62703.
3. The following persons may be contacted regarding issues related to the processing of this application:

Vanessa G. Tanaka
McDERMOTT WILL & EMERY LLP
227 WEST MONROE STREET
Chicago, IL 60606-5096
Tel: 312.984.2143
Fax: 312.984.7700
vtanaka@mwe.com

The following person may be contacted regarding issues related to retail customers, including complaint resolutions, and technical issues, including scheduling of generation, transmission, and distribution, and issues arising from relationships with other providers of electric services:

Thomas A. Bielas
Capital Project and Facility Manager
5005 Barnard Mill Road
Ringwood, IL 60072-0238
Tel: 815.653.2411 x456
Fax: 815.653.9972
tbielas@rohmmaas.com

4. Rohm and Haas Chemicals is licensed to do business in the State of Illinois, as demonstrated in Attachment A.
5. Rohm and Haas Chemicals' employees that will be installing, operating, and maintaining generation, transmission, or distribution facilities within the State of Illinois, as well as any entity with which Rohm and Haas Chemicals LLC has contracted to perform those functions, have the requisite knowledge, skills, and competence to perform those functions in a safe and responsible manner in order to provide safe and reliable service in accordance with the criteria stated in Section 16-128(a) of the Act, 220 ILCS 5/16-128(a), as demonstrated in Attachment B.
6. Rohm and Haas Chemicals owns and operates a 38-acre chemical manufacturing facility with electric demands of 3.8 megawatts. The facility is located at 5005 Barnard Mill Road, Ringwood, IL 60072-0238. Huntsman ICI Chemicals LLC ("Huntsman") owns industrial facilities located on a 2.5-acre portion of the Ringwood complex. Morton International, a Commission-authorized ARES, currently provides generation, transmission, and distribution services to Huntsman. Upon approval of Rohm and Haas Chemicals' ARES application, Rohm and Haas Chemicals will assume Morton International's obligations to provide electricity and delivery services. At that time, Morton International will request that the Commission cancel its ARES authorization.

7. As a Commission-authorized ARES, Rohm and Haas Chemicals will sell electricity and related delivery services to Huntsman, a single non-residential retail end-use customer with electrical demands of one megawatt or more. Huntsman owns industrial facilities located on a 2.5-acre portion of Rohm and Haas Chemicals' "Ringwood" complex. Rohm and Haas Chemicals will not sell electricity or related delivery services to any other customers.
8. Rohm and Haas Chemicals seeks ARES certification under Part 451 subpart B to serve Huntsman, as described in paragraph 7 above.
9. Proof of notification to each utility of Rohm and Haas Chemicals' intent to serve in the utility's service area is provided in Attachment C.
10. Rohm and Haas Chemicals certifies that it:
 - a. will comply with all applicable Federal, State, regional and industry rules, practices, policies, procedures and tariffs for the use, operation, maintenance, safety, integrity, and reliability of the interconnected electric transmission system including the Open Access Same-time Information System ("OASIS") mandated by 18 C.F.R. § 37 (2004) and the rules and operating guidelines and procedures of the regional or national electric reliability council(s) or organization(s) and their successors for any portion of the state in which the applicant is certified to provide retail electric service;
 - b. will provide service only to retail customers that are eligible to take delivery services;
 - c. will comply with informational and reporting requirements that the Commission may by rule establish;

- d. will comply with informational and reporting requirements that the Commission may establish regarding the provision of information required by Section 16-112 of the Act;
 - e. complies with all other applicable laws and regulations and Commission rules and orders; and
 - f. complies with all terms and conditions required by Sections 115A(a), (b), and (f), 16-119, 16-123, 16-125(b) and (c), 16-127, and 16-128(a) of the Act, to the extent those Sections have application to the services being offered by Rohm and Haas Chemicals.
- 11. Rohm and Haas Chemicals agrees to submit good faith schedules of transmission and energy in accordance with applicable tariffs.
 - 12. Rohm and Haas Chemicals agrees to adopt and follow rules and procedures ensuring that authorizations received from customers, customer billing records, and requests for delivery service transmitted to utilities are retained for a period of not less than two calendar years after the calendar year in which they were created.
 - 13. Rohm and Haas Chemicals agrees to adopt and follow rules and procedures to preserve the confidentiality of its customer's data.
 - 14. Rohm and Haas Chemicals currently is not a Commission-authorized ARES. However, as discussed above, the Commission granted ARES certification to Rohm and Haas Chemicals' affiliate, Morton International, in docket no. 00-0559.²

² See Docket No. 00-0559.

RECIPROCITY

15. The names and addresses of all of Rohm and Haas Chemicals' affiliated companies involved in electric retail sales or purchases in the North American continent are as follows:

Morton International, Inc.
5005 Barnard Mill Road
Ringwood, IL 60072-0238

16. Rohm and Haas Chemicals certifies that it complies with Section 16-115(d)(5) of the Act, and that it will remain in compliance with such requirements and will certify annually such compliance to the Commission during January of each year after its certification. A demonstration that Rohm and Haas Chemicals is in compliance with Section 16-115(d)(5) of the Act is set forth in Attachment D.

LICENSE OR PERMIT BOND

17. A copy of the license or permit bond required by Part 451.50(a) of the Commission's Regulations, and proof that the surety meets the definition of "qualifying surety" under Part 451.10 of the Commission's Regulations is set forth in Attachment E.

FINANCIAL QUALIFICATIONS

18. Rohm and Haas Chemicals meets the financial criteria set forth in Part 451.110(a)(2) of the Commission's Regulations, as demonstrated in Attachment F.
19. Rohm and Haas Chemicals will provide electric power and energy with property, plant and equipment that it owns, controls, or operates. Attachment G shows that the commercial general liability insurance coverage in an amount that meets or exceeds the \$100,000,000 requirement and shall remain in effect for a period of not less than one year. Attachment G shows that the insurers have Best's ratings of A- or better and Best's financial sizes of VII or larger.

TECHNICAL QUALIFICATIONS

20. Rohm and Haas Chemicals will use electric generation, transmission or distribution facilities that it owns, controls or operates in serving customers. Rohm and Haas Chemicals meets the requirements of Part 451.120 of the Commission's Regulations, as demonstrated in Attachment H.

MANAGERIAL QUALIFICATIONS

21. Rohm and Haas Chemicals meets the managerial qualifications set forth in Part 451.130 as demonstrated in Attachment I. Attachment I includes an exhibit containing a corporate organizational chart and identifying the persons or agents who are being used to meet the requirements of Part 451.130(b).
22. Rohm and Haas Chemicals is relying on one or more agents or contractors to meet the technical and managerial requirements of Part 451.120 and 451.130. Each agent and contractor on whom Rohm and Haas Chemicals relies to meet these requirements is disclosed on Attachment J. Rohm and Haas Chemicals certifies that each such agent or contractor will comply with all the sections of Part 451 that are applicable to the functions to be performed by the respective agent or contractor.

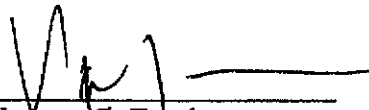
FINANCIAL QUALIFICATIONS FOR SINGLE BILLING SERVICES

23. Rohm and Haas does not intend to provide single billing services.

WHEREFORE, Rohm and Haas Chemicals requests that the Commission grant its application for service authority to serve the single non-residential retail end-use customer with an electrical demand of one megawatt or more as discussed herein.

Respectfully submitted,

Rohm and Haas Chemicals LLC


By: 
Vanessa G. Tanaka
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VERIFICATION

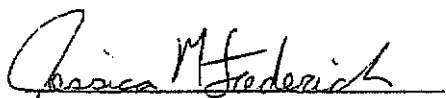
STATE OF _____)
) ss:
COUNTY OF _____)

Vanessa G. Tanaka, being first duly sworn, deposes and says that he is an attorney for Rohm and Haas Chemicals LLC; that he has read the foregoing Application of Rohm and Haas Chemicals LLC, and all of the attachments accompanying and referred to within the Application; and that the statements contained in the Application and the attachments are true, correct and complete to the best of his knowledge, information and belief.



Vanessa G. Tanaka

Subscribed and sworn to before me
this 2nd day of November 2006.



Notary Public

